

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

GERARD BOULANGER,	:	
Plaintiff,	:	
	:	
v.	:	NH 06-cv-00308-WES
	:	RI MC 07-23
U.S. MARSHALS SERVICE,	:	
NEW HAMPSHIRE DISTRICT, <sup>1</sup> et al.,	:	
Defendants.	:	

**ORDER VACATING STAY**

**AND**

**NOTICE OF STATUS CONFERENCE**

The stay of proceedings which the Court granted on August 27, 2008, see Order Granting Motion to Stay Proceedings,<sup>2</sup> is hereby vacated. The Court will conduct a telephone status conference with Plaintiff and counsel for Defendants on July 16, 2009, at 10:00 a.m. At that time the parties should be prepared to discuss:

- 1) what, if anything, needs to be done before this matter is scheduled for trial;
- 2) the names of any witnesses which a party intends to call

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<sup>1</sup> Although all federal Defendants have now been dismissed from this action, see Order and Memorandum Granting Federal Defendant's Motion to Dismiss (District of New Hampshire Document ("D.N.H. Doc.") #54) ("Order and Memorandum of 11/15/07") (dismissing last federal Defendant), the Court identifies the case as it was originally filed, see Complaint.

<sup>2</sup> The Order Granting Motion to Stay Proceedings was signed by the Court on August 27, 2008, and docketed by the Clerk on August 28, 2008.

at trial;

3) whether Plaintiff has the financial ability to pay the cost of his transportation to Rhode Island,<sup>3</sup> see Manning v. Tefft, 839 F.Supp. 126, 129 (D.R.I. 1994) ([A] prisoner has no constitutional right to be transported to the trial, free of charge."); id. (noting that the use of public funds to pay the transportation expenses of an indigent civil litigant "would constitute the kind of affirmative assistance to a civil litigant that has been held to be beyond the scope of [28 U.S.C.] § 1915"); see also Thornton v. Snyder, 428 F.3d 690, 697 (7<sup>th</sup> Cir. 2005) ("[A] prisoner does not have a constitutional right to attend the jury trial of his civil rights claim involving the conditions of his confinement."); Latiolais v. Whitley, 93 F.3d 205, 208 (5<sup>th</sup> Cir. 1996) ("prisoner-plaintiffs have no constitutional right to be present at their civil trial"); Lemmons v. Law Firm of Morris & Morris, 39 F.3d 264, 267 (10<sup>th</sup> Cir. 1994) (same); Manning v. Tefft, 839 F.Supp. at 129 ("It is clear that a prisoner does not even have a constitutional right to be present at a civil trial to which he is party.") (citing Stone v. Morris, 546 F.2d 730 (7<sup>th</sup> Cir. 1976); Armstrong v. Rushing, 352 F.2d 836, 837 (9<sup>th</sup> Cir. 1965)).

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<sup>3</sup> The United States Marshals Service has advised the Court that the estimated cost of Plaintiff's round trip transportation to Rhode Island is approximately \$5,000.00 and that for each day of trial the Marshals Service would incur additional costs of approximately \$1,320.00.

ENTER:

/s/ David L. Martin  
DAVID L. MARTIN  
United States Magistrate Judge  
July 6, 2009